



GUIDANCE STATEMENT 2013-1

KNOWN SEX OFFENDERS ACCESSING LIBRARY SERVICES

The West Virginia Library Commission has been questioned repeatedly regarding rules and guidelines regarding sex offenders using public access computers and Internet access provided by public libraries in West Virginia. There is speculation ranging from laws supposedly being in place which prevent such activity to librarians having a responsibility to notify law enforcement officials when such actions take place. This statement is to clarify rules and regulations on the subject.

West Virginia law does not restrict any person from using computers or the Internet, including computers and Internet services provided by free public libraries. Sex offenders may be restricted from use of computers or the Internet as a part of their sentencing or probation, but they are not restricted from accessing such services by West Virginia law.

Public librarians in West Virginia have no legal responsibility to know of such sentencing, or insuring that requirements of such sentences are carried out. As library workers are not officers of the court, nor sworn under law to serve as law-enforcement investigative officials, it is recommended that they refrain from acting as such.

Chapter 10 of the *West Virginia Code* establishes public libraries and gives rules for their operation. Section 1, Part 22 of Chapter 10 very clearly states:

§10-1-22. Confidential nature of certain library records.

(a) Circulation and similar records of any public library in this state which identify the user of library materials are not public records but shall be confidential and may not be disclosed except:

- (1) To members of the library staff in the ordinary course of business;
- (2) Upon written consent of the user of the library materials or the user's parents or guardian if the user is a minor or ward; or
- (3) Upon appropriate court order or subpoena.

(b) Any disclosure authorized by subsection (a) of this section or any unauthorized disclosure of materials made confidential by that subsection (a) does not in any way destroy the confidential nature of that material, except for the purpose for which an authorized disclosure is made. A person disclosing material as authorized by subsection (a) of this section is not liable therefor.

Based on this passage, the Library Commission strongly recommends against the discussion of the use of any library services by any public library employee with anyone other than with other library employees in the normal course of library business, or with law enforcement authorities when served with an appropriate court order, warrant or subpoena as signed by a Magistrate or higher judicial authority.

As always, if a library patron displays such a behavior or activity that would lead library workers to question their personal security, the security of the library, or particularly the security of library users, they should contact their local law enforcement agency immediately.